

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

*In the Matter of*

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PRICE CAP PERFORMANCE REVIEW FOR  
LOCAL EXCHANGE COMPANIES

CC DOCKET No. 94-1

FEDERAL STATE JOINT BOARD ON  
UNIVERSAL SERVICE

CC DOCKET No. 96-45

LOW-VOLUME LONG DISTANCE USERS

CC DOCKET No. 99-249

ACCESS CHARGE REFORM

CC DOCKET No. 99-262

**Reply Comments of the  
Smithville Telephone Company, Inc.**

The Smithville Telephone Company ("Smithville") hereby files these reply comments in response to comments filed pursuant to the Public Notice released March 8, 2000 by the Federal Communications Commission ("FCC") in the above-captioned proceedings. In its Public Notice the FCC sought supplemental comment on the original proposal of the Coalition for Affordable Local and Long Distance Services ("CALLS") filed on July 29, 2000 (the "Original Proposal"), and sought comment on a modified version of the proposal filed on March 8, 2000 (the "Modified Proposal").

Many of the Commenters reiterated flaws that exist in the Original Proposal that were not addressed in the Modified Proposal. See, e.g., NARUC's Comments at 2 and Appendix A (submission of Resolution previously filed with the Commission urging the FCC to "sufficiently address" a list of specific concerns raised in the Original Proposal); Allegiance Telecom's Comments at 3-4 (arguing that any industry consensus approach to comprehensive access charge and universal service reform is flawed unless it includes concerns of all telecommunications

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providers and noting that the Modified Proposal continued to exclude competitive local exchange carriers).

Smithville likewise is concerned that flaws that existed in the Original Proposal have not been addressed in the Modified Proposal. Smithville believes that the Modified Proposal is no different than the Original Proposal, in that neither one addresses the issues raised by Smithville in its comments filed in response to the Original Proposal (“Smithville’s Comments”). As stated in Smithville’s Comments and summarized herein, Smithville believes that the CALLS Proposal falls short of acknowledging the provisions of Section 254(g) and 254(k) of the Telecommunications Act of 1996 (the “Act”). In short, Smithville believes that the Modified Proposal is no more compliant with these sections of the Act and that neither the Original nor the Modified Proposal should be adopted until both the letter and the intent of these universal service provisions of the Act are not violated and hopefully furthered.<sup>1</sup>

#### **Section 254(g) of the Act**

As explained in Smithville’s Comments, although the CALLS companies represent a majority of access lines and revenues, the overwhelming number of incumbent local exchange carriers (“ILECs”) are not CALLS companies. These non-CALLS companies generally serve a greater proportion of rural and high cost areas than CALLS companies and, thereby, have higher access costs and access charges. As a result of the increasing access charge differential between CALLS companies and non-CALLS companies due to the CALLS Proposal, customers served

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<sup>1</sup> Because the Modified Proposal is no more compliant with the Act, Smithville respectfully requests that its previously filed comments be considered in regards to both the Original and Modified Proposals.

by non-CALLS companies could be subject to higher toll rates simply by the location of their NNX (“Toll Redlining”).<sup>2</sup> This is clearly in violation of section 254(g) that states that “the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.” 47 U.S.C. § 254(g). See also RICA’s Comments commenting on the Modified Proposal at 6-7 (citing AT&T’s and Sprint’s letters that indicate that any savings realized by the Modified CALLS plan would only be passed on to customers of the incumbent LECs that participate in the CALLS plan and opposing any such attempt to charge different rates to end users within the same geographic boundary).

#### **Section 254(k) of the Act**

Under both the Original and Modified Proposals, 100 % of the costs associated with the interstate portion of the local loop are recovered by an end user charge. As stated in Smithville’s Comments, since the end user charge or subscriber line charge (“SLC”) is a service included in the definition of universal service, i.e., access to interexchange services, Smithville believes that a 100% allocation of the common and joint interstate loop costs to the interstate SLC would be a violation of Section 254(k) of the Act.<sup>3</sup> This section of the Act clearly states that “services included in the definition of universal service shall bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.” 47 U.S.C. § 254(k). In

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<sup>2</sup> See Smithville’s Comments at 3-4 (charts demonstrating that currently, it is more financially attractive for IXC’s to provide service between price cap ILEC subscribers and very unprofitable to provide service between NECA subscribers and that this disparity increases with application of the CALLS Proposal).

<sup>3</sup>See Smithville’s Comments at 5-6.

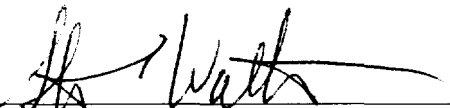
Smithville's opinion, 100% is not a "reasonable share" when other interstate services, e.g., carrier common line, also utilize the local loop. See also Competition Policy Institute's Comments commenting on the Modified Proposal at 2 (noting that by shifting usage-based access charges to end-users, the Modified Proposal defeats the Commission's policy of using market forces to drive access charges toward costs).

### **Conclusion**

Smithville urges the FCC to review both the Original and Modified Proposals to ensure that they further the objectives of the Act. Part II of the Act, "Development of Competitive Markets" includes sections 251, 252, 253 and 254. Therefore it would seem reasonable that the "competitive markets" envisioned by Congress would embrace the clear mandates of section 254, not just sections 251 and 252. Smithville is requesting that the Commission insure that the letter and intent of section 254 as an integral part of "competitive market" mandated by Congress is furthered rather than ignored or even worse, violated.

Respectfully submitted,

SMITHVILLE TELEPHONE COMPANY

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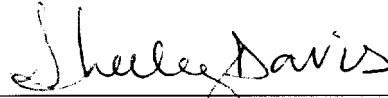
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I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Reply Comments of the Smithville Telephone Company, Inc." was served on this 17<sup>th</sup> day of April, 2000 by first class, U.S. mail, postage prepaid to the following parties:



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